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PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES

Report of the Secretary-General

Addendum

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II. REPLIES RECEIVED FROM MEMBER STATES

NIGERIA

[Original: English]

[12 August 1988]

The position of Nigeria in the implementation of resolution 42/150, entitled "Peaceful settlement of disputes between States", is as follows:

(a) Nigeria was appointed a member of the Mediation Committee of the Organization of African Unity (OAU), which mediated in the Chad crisis. Nigeria also contributed financially to the cost of the peace-keeping force in Chad.

(b) On the border dispute between Nigeria and Cameroon, Nigeria has opted to meet with Cameroon to demarcate the boundaries. It has even decided that, if the option fails, the matter would go to arbitration.

(c) Nigeria is negotiating a treaty on non-sequestration of properties and protection of life with Equatorial Guinea. This is with a view to avoiding conflicts that may arise from the nationalization or expropriation of the properties of the nationals of both countries.

(d) Nigeria has concluded extradition treaties and legal assistance treaties with a few countries. For example, it has executed an Agreement with the United States on Mutual Assistance on Criminal Matters. These treaties foster good relations between Nigeria and the countries concerned.

PHILIPPINES

[Original: English]

[3 October 1988]

1. Article II, section 2, of the Constitution of the Republic of the Philippines states:

"The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, co-operation and amity with all nations."

The Philippines continues to recognize the need to enhance the effectiveness of the principles of the peaceful settlement of disputes, prevention of the threat of use or use of force in international relations, self-determination of peoples, non-interference in the domestic affairs of Member States, as well as respect for their sovereignty, independence and territorial integrity.

2. At the regional level, the Philippines has always been hard at work in the Association of South-East Asian Nations (ASEAN). We have continued to co-operate

with ASEAN in the search for an early peaceful settlement of the problem in Kampuchea. Among the goals of the Philippines is the establishment of a zone of peace, freedom and neutrality (ZOPFAN) in South-East Asia. Towards this end, the Philippines has expressed its new activism in the field of disarmament in the region.

3. The Manila Declaration on the Peaceful Settlement of International Disputes is a manifestation of an ardent desire of Member States to end international conflicts and to develop peaceful international relations. We held the view then, as we do now, that its adoption would serve to emphasize the obligation of States under the Charter of the United Nations to settle disputes in a peaceful manner and to deepen their awareness of the responsibilities that they have freely assumed. Indeed, the provisions of the Manila Declaration on the Peaceful Settlement of International Disputes have found their way into various United Nations instruments. Only last year, the Manila Declaration was reaffirmed with the adoption by the General Assembly of the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations. Once again, it has been reaffirmed in the recently completed draft Declaration on the Prevention and Removal of Disputes and Situations which may Threaten International Peace and Security and on the Role of the United Nations in this Field, which will be submitted to the General Assembly for adoption at its forty-third session.

4. The Manila Declaration, however, does not and should not exhaust the responsibilities of Member States with regard to peaceful settlement of disputes. International developments are increasingly highlighting the importance of peaceful settlement of all disputes among States as a prerequisite for world peace and security, and there is thus a pressing need to use all available means to ensure that this fundamental principle of international law is strictly respected by all States.

5. The procedural mechanism proposed by Romania for a resort to a commission of good offices, mediation and conciliation within the United Nations that may be voluntarily utilized by Member States in the settlement of disputes is considered by the Philippines one of the means available that could enhance the implementation and increase the effectiveness of the Manila Declaration.

6. Lack of implementation is often passed off as lack of political will. While it is true that, ultimately, political will is the prerequisite to global peace, the nature of such political will should be examined. It should be political will founded on good faith.

7. Lastly, the Philippines reiterates its position with regard to a process that, more often than not, has been a stumbling block in the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. The Special Committee's mandate is not limited to listing and examining proposals, but, more importantly, it should make recommendations on these proposals. It must be freed from the shackles of a false consensus that has passed for unanimity. When true consensus is not readily achievable, a simple majority should suffice to enable recommendations to be forwarded to the General Assembly for consideration.

III. REPLIES RECEIVED FROM INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS

A. United Nations specialized agencies

International Maritime Organization

[Original: English]

[19 August 1988]

The recent action taken in IMO on the subject has been in the context of the Convention on the Suppression of Unlawful Acts Against the Safety of Maritime Navigation adopted on 10 March 1988 by the diplomatic conference convened by IMO. Article 16 of the Convention deals with the settlement of disputes among the Parties thereto. 1/ This provision is also applicable to disputes arising between parties to the Protocol on the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, which was adopted at the same diplomatic conference. The procedure applies to the Protocol by virtue of its article 1.1. 2/

1/

"ARTICLE 16

"1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

"2. Each State may at the time of signature or ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by any or all of the provisions of paragraph 1. The other States Parties shall not be bound by those provisions with respect to any State Party which has made such a reservation.

"3. Any State which has made a reservation in accordance with paragraph 2 may, at any time, withdraw that reservation by notification to the Secretary-General."

2/

"ARTICLE 1

"1. The provisions of articles 5 and 7 and of articles 10 to 16 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (hereinafter referred to as "the Convention") shall also apply mutatis mutandis to the offences set forth in article 2 of this Protocol where such offences are committed on board or against fixed platforms located on the continental shelf ..."

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World Intellectual Property Organization

[Original: English]

[16 September 1988]

1. Three of the international treaties administered by WIPO provide a mechanism for the settlement of legal disputes between States party to the treaty concerned. The three treaties are the Paris Convention for the Protection of Industrial Property (Stockholm Act, 1967; art. 28), the Berne Convention for the Protection of Literary and Artistic Works (Stockholm Act, 1967, and Paris Act, 1971; art. 33) and the International (Rome) Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (art. 30). The texts of the articles referred to are virtually the same. They provide for the submission to the International Court of Justice by a State party to the treaties of a dispute between it and another State party to the treaty concerning its interpretation or application if the dispute is not settled by negotiation or if the parties do not agree on some other method of settlement. As concerns the first two treaties mentioned, the mechanism is optional, i.e. a State becoming party to the treaty may declare that the provisions of the article referred to shall not apply to it.
2. As at 31 August 1988, of the 98 States party to the Paris Convention, 73 are, while 25 are not, bound by the provisions of establishing the jurisdiction of the International Court of Justice. Of those 25 States, 20 States chose not to be bound by the provisions whereas the other 5 States are still (and only) bound by the texts of the Convention adopted prior to 1967 when the provisions were first introduced.
3. As concerns the Berne Convention, the situation is as follows: of the 79 States party to the Berne Convention, 60 States are, while 19 States are not, bound by the provisions establishing the jurisdiction of the International Court of Justice. Of those 19 States, 14 States chose not to be bound by the provisions whereas the other 5 States are still (and only) bound by the texts of the Convention adopted prior to 1967 when those provisions were first introduced.
4. As concerns the Rome Convention, 32 States are party to that Convention and are thus bound by its provisions establishing the jurisdiction of the International Court of Justice.
5. With the assistance of the Committee of Experts on Intellectual Property in Respect of Integrated Circuits, the International Bureau of WIPO is preparing a draft treaty on the protection of intellectual property in respect of integrated circuits. The delegation of a State member of the Committee has proposed that the draft treaty include provisions on consultation procedures for the settlement of disputes that arise because one contracting State believes that another contracting State does not fulfil its obligations or exceeds its rights under the treaty.
6. Under article 12 of the Agreement between the United Nations and the World Intellectual Property Organization, the General Assembly has authorized WIPO to request advisory opinions of the International Court of Justice on legal questions

arising within the scope of its competence other than questions concerning the mutual relationships of the Organisation and the United Nations or other specialized agencies.

7. Article 27 of the Agreement between the Swiss Federal Council and the World Intellectual Property Organization to determine the Legal Status in Switzerland of the Organisation ("the Headquarters Agreement") calls for the submission by either party to a court of arbitration composed of three members of any difference of opinion concerning the application or interpretation of the Headquarters Agreement which direct consultations between the parties have failed to settle. Each party is to designate one member of the court and the members thus designated are to choose their president; in the event of a disagreement between the members as to the choice of the president, the latter is to be designated by the President of the International Court of Justice at the request of the members of the court of arbitration.
